IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 8823 of 2005(A)
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PETITIONER:
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VASUDEVAN NAIR, S/O.CHELLAPPAN PILLAI,
RESIDING AT `ASHWATHI', MUTHUPILAKADU EAST,
PORUVAZHI POST, KOLLAM (WORKING AS ASSISTANT
EDUCATION OFFICER, SASTHAMCOTTA, KOLLAM).

BY ADV. SMT.SADHANA KUMARI ESWARI

RESPONDENTS:
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1. THE DEPUTY DIRECTOR OF EDUCATION,
KOLLAM.

2. SUB TREASURY OFFICER,
SASTHAMCOTTA, KOLLAM.

3. THE SPECIAL DEPUTY TAHSILDAR (R.R),
THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
KOLLAM-691 001.

4. THE KERALA STATE FINANCIAL ENTERPRISES
LTD., REPRESENTED BY ITS MANAGING DIRECTOR,
`BHADRATHA', TRICHUR.

R1 TO R3 BY G.P. SRI. P. RAVINDRA BABU
R4 BY ADV. SRI.M.K.CHANDRAMOHAN DAS, SC, KSFE, LTD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 DATED 20.11.2002 TRUE COPY OF THE COMMUNICATION NO. RR/63798 ISSUED BY RESPONDENT NO. 3

EXT.P2 DATED NIL,TRUE COPY OF THE STATEMENT ISSUED BY KSFE.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

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W.P.C. NO. 8823 OF 2005

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Dated this the 14th day of December, 2007

JUDGMENT

This Writ Petition is filed challenging garnishee proceedings issued by KSFE for recovery of arrears of loan availed by another person for whom petitioner along with another person stood as surety. It is seen from Ext.P1 that the amount due was Rs. 46,041/-, and counsel for the KSFE submitted that the amount now due is Rs. 1.24 lakhs and the borrower has no assets. If the petitioner stood as surety, then recovery has to be made against the petitioner. However, if petitioner furnishes details of assets of the defaulter, then there will be direction to the third respondent to proceed for recovery first against assets of the defaulter and if petitioner fails to furnish details, then petitioner's retirement benefits can be appropriated for settlement of arrears of loan for which he stood as surety. When this W.P.C. came up for admission, this Court only directed the concerned respondent to process the pension papers of the petitioner. However, there was no direction to release payment. It is not known what happened in the

course of last two and a half years . In any case, W.P. is closed directing respondents 1 and 2 to release retirement benefits, including pension, to the petitioner only after remitting the amount demanded by the third respondent, if petitioner does not settle liability, or if amount is not recovered from the principal debtor or other surety.

(C.N. RAMACHANDRAN NAIR)
Judge